



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

November 4, 2015

TO: Members  
Joint Finance Committee

FROM: Bob Lang, Director

SUBJECT: Senate Bill 227: Sales and Use Tax Exemption for Building Materials

Senate Bill 227 (SB 227) was introduced on August 11, 2015, and was referred to the Joint Survey Committee on Tax Exemptions. The bill was subsequently withdrawn from that committee on August 17, 2015 and referred to the Senate Committee on Revenue, Financial Institutions, and Rural Issues. On August 18, 2015, a report of the Joint Survey Committee on Tax Exemptions was requested. The Senate Committee on Revenue, Financial Institutions, and Rural Issues recommended the bill for passage on a vote of 5 to 0 on September 8, 2015. Senate Amendment 1 was offered on September 24, 2015, and Senate Amendment 2 was offered on October 14, 2015. The Joint Survey Committee on Tax Exemptions found that the bill was appropriate public policy on October 22, 2015. A report from the Joint Survey Committee on Tax Exemptions was received on October 29, 2015. On November 3, 2015, the bill was referred to the Joint Committee on Finance.

### **SUMMARY OF BILL**

Wisconsin imposes a general sales and use tax at a rate of five percent on the sales price or purchase price of taxable goods and services sold or used in this state, with certain exceptions. Under current law, sales of real property (land and structures) are exempt from the sales tax. Construction contractors are generally considered the final purchasers of building materials (tangible personal property) that are used in making real property improvements, and are subject to the state sales tax on such purchases. Under current law, purchases of taxable goods and services by governmental entities and certain nonprofit organizations are exempt from tax.

SB 227 would create a sales and use tax exemption for the sale of and the storage, use, or other consumption of tangible personal property or other goods sold to construction contractors who, in fulfillment of a real property construction activity, transfer the goods to school districts, counties, municipalities, or nonprofit entities, if such goods become a component of a facility in this state that is owned by the entity. Under current law, if governmental or nonprofit entities purchase construction materials directly, the transaction is not subject to the sales tax.

Eligible nonprofit entities would include those that are organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations, "Facility" would mean any building, shelter, parking lot, parking garage, athletic field, athletic park, storm sewer, water supply system, or sewerage and waste water treatment facility, but would not include a highway, street, or road.

These provisions would take effect on January 1, 2016, and first apply to construction contracts entered into on that date.

As passed by the Legislature, the 2015-17 biennial budget bill included a provision that would have created a sales and use tax exemption for goods sold to construction contractors who, in fulfillment of a real property construction activity, transferred the goods to school districts, counties, municipalities, or nonprofit entities if such goods become a component of a facility in this state that is owned by the entity. The entire provision was vetoed by the Governor. The veto message indicated that there was concern that the exemption was worded too broadly, potentially exempting construction contractor purchases for any project and not just the goods sold to the construction contractor on a specific qualifying project.

#### **SUMMARY OF SENATE AMENDMENT 1**

Senate Amendment 1 would add sewerage commissions and metropolitan sewerage districts to the list of entities that would qualify a contractor for the sales and use tax exemption provided in SB 227.

#### **SUMMARY OF SENATE AMENDMENT 2**

Senate Amendment 2 would add county-city hospitals, sewerage commissions, metropolitan sewerage districts, and joint local water authorities to the list of entities that would qualify a contractor for the sales and use tax exemption provided in SB 227.

#### **FISCAL EFFECT**

Based on the fiscal estimate produced by the Department of Revenue (DOR), the tax exemption created under SB 227 would reduce state sales and use tax revenues by \$6.4 million on an annual basis. With an effective date of January 1, 2016, it is estimated that SB 227 would reduce state tax revenues by \$3.2 million in 2015-16 and by \$6.4 million in 2016-17. Local sales tax revenues would decrease by an estimated \$263,000 in 2015-16 and \$526,000 in 2016-17. The inclusion of Senate Amendment 1 or Senate Amendment 2 would have a minimal fiscal effect.

Approximately 60% of the fiscal effect is related to school districts and local governments. As a result of not having to pay state tax on construction materials it is possible that construction contractors will lower prices charged to school districts and local governments. However, lower construction contract costs for school districts and local governments would only be realized if the district or government did not previously purchase materials directly from suppliers in the past. DOR estimates these potential savings at \$4.1 million annually.

Prepared by: Ryan Horton